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Can Human Rights Advocacy Resolve the North Korea Nuclear Impasse?

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Overview

Historically, U.S. administrations have treated concerns about North Korea's nuclear and missile programs as in tension with—if not outright opposition to—concerns about North Korea's gross violations of religious freedom and other human rights. U.S. negotiators have feared—perhaps with some justification—that introducing human rights would complicate or even undermine the ongoing security-related negotiations. However, North Korea's weapons programs and human rights violations derive from the same root causes: the government's perception of its insecurity and lack of transparency. Just as the regime views nuclear weapons as a guarantee against foreign invasion, it views crackdowns on rights as necessary to forestall internal challenges to its authority. At the same time, for U.S. policymakers, North Korea's ongoing human rights violations make lifting sanctions politically unpalatable and legally complicated. In short, North Korean weapons programs and human rights are interlinked such that progress on one is difficult without the other.

This report presents a new approach for U.S. policy, one that treats security and human rights objectives as complementary rather than contradictory. This approach, modeled loosely on the Helsinki Accords (also known as the Helsinki Final Act) during the Cold War, could allow the North Korean government a freeze on development of nuclear weapons and missiles—rather than full denuclearization—and offer a final peace agreement in return for greater transparency and promises to respect human rights. Such a deal might at least prevent the security situation on the Korean Peninsula from further deteriorating, while at the same time laying the groundwork for gradual improvements in religious freedom in the country. The situation on the Korean Peninsula in 2020 is not the same as Eastern Europe in 1975, but, as discussed later in this report, the similarities are instructive.

Religious Freedom in North Korea

Religious freedom conditions in the Democratic People's Republic of Korea (DPRK) consistently remain among the worst in the world. According to the Database Center for North Korean Human Rights (*NKDB*), 99.6 percent of defectors who left North Korea since 2007 believed that religious activities could not be carried out freely in



the DPRK. As noted in USCIRF’s [2020 Annual Report](#), any expression of religion outside the limited number of state-sponsored houses of worship is subject to severe punishment—including arrest, torture, imprisonment, and even execution. The possession and distribution of religious texts remains a criminal offense. Although these restrictions affect followers of Buddhism, Chondoism (Religion of the Heavenly Way), and other beliefs, Christians are especially targeted because the regime views them as susceptible to foreign influence. Of the 725 specific incidents of religious persecution [documented](#) by NKDB, more than 46 percent involved Protestants, while an additional 3 percent involved Catholics.

According to the [United Nations Commission of Inquiry report](#) released in 2014, the North Korean government maintains a network of prison camps (*kyohwaso*) and labor training camps (*rodongdanryondaes*) that house an estimated 80,000-120,000 prisoners of conscience and other declared “enemies of the state.” According to some experts, tens of thousands of Christians have been detained in these camps. Inmates are forced to provide hard labor and suffer poor living conditions, malnutrition, and other abuses. Meanwhile, according to the [Committee for Human Rights in North Korea](#), the *songbun* system, which classifies citizens based on their perceived loyalty to the state, places religious practitioners in the “hostile” class, limiting their access to educational and employment opportunities.

Since 2001, USCIRF has consistently recommended that North Korea be designated as a Country of Particular Concern (CPC) under the International Religious

Freedom Act (IRFA). On December 18, 2019, the State Department [redesignated](#) North Korea as a CPC. However, it has only extended existing restrictions under the Jackson-Vanik Amendment of the Trade Act of 1974, rather than imposing new sanctions as authorized under IRFA specifically for religious freedom violations.

Despite President Donald J. Trump’s prioritization of religious freedom, his administration has not aggressively pursued religious freedom promotion in North Korea because of concerns about undermining security-related negotiations. The Trump administration initially worked with the United Nations to tighten sanctions on the DPRK. In early 2018, the president decided to pursue personal diplomacy with North Korean leader Kim Jong-un. The two leaders met at a summit in Singapore in June 2018; official statements did not mention human rights but the president [raised](#) the issue in private. A second summit in February 2019 was cut short due to disagreements about sanctions relief, and human rights were reportedly not raised. By the end of 2019, progress on negotiations had stalled. Although the State Department has continued to [express](#) concerns about religious freedom conditions in North Korea, in December the U.S. permanent representative to the United Nations reportedly [blocked](#) efforts to put North Korea’s human rights record on the UN Security Council agenda. The administration also has not filled the vacancy for the Special Envoy for North Korean Human Rights Issues. However, by 2020, downplaying human rights had not yielded significant progress in denuclearization of the Korean Peninsula. Nor had it seemingly gained the trust of North Korean officials.

A Brief History of U.S.-North Korea Relations

The interconnectedness between U.S. security and human rights concerns in North Korea is not new. In 1994, after International Atomic Agency Inspections reported that the DPRK had reprocessed more plutonium than it had declared, then President William J. Clinton developed the Agreed Framework, under which Pyongyang agreed to freeze plutonium production and dismantle its nuclear weapons programs in return for the normalization of diplomatic relations and economic assistance. However, a severe famine during the 1990s prompted thousands of North Koreans to flee the country. These refugees subsequently *increased awareness* of human rights conditions inside the country, including the prison camps, leading members of Congress to prevent the Clinton administration from providing certain assistance as stipulated by the Agreed Framework.

By late 2002, the Agreed Framework collapsed as U.S. officials accused the DPRK of engaging in uranium enrichment. Then President George W. Bush pursued six-party talks with North Korea, South Korea, China, Russia, and Japan—partly because the Bush administration wanted other parties to verify any commitments made by North Korean negotiators. Despite the negotiations, on October 9, 2006, North Korea announced it had successfully conducted its first nuclear test. At the same time, then President Bush publicly condemned North Korea’s human rights record. In his *2002 State of the Union address*, he labeled the DPRK as part of an “Axis of Evil” along with Iran and Iraq. In 2004, Congress passed and the president signed the North Korean Human Rights Act (*P.L. 108-333*)—most recently reauthorized in 2018 (*P.L. 115-198*)—which increased funding for the promotion of human rights and created the Special Envoy for North Korean Human Rights Issues. However, *some critics* argued that the promotion of human rights, combined with the 2003 invasion of Iraq, would only increase the North Korean regime’s desire for nuclear weapons.

Then President Barack H. Obama continued to criticize North Korea’s human rights record, but also attempted to counteract the perceived association with “regime change” by reaffirming that the United States had no hostile intent toward the DPRK. He also appointed *Robert R. King* to serve as special envoy. A provisional agreement on security-related issues collapsed after the DPRK conducted a long-range missile test in April 2012. After this, the Obama administration pursued multilateral sanctions while waiting for North Korea to return to the negotiating table. In 2016, Congress passed the North Korea Sanctions and Policy Enhancement Act (*P.L. 114-122*), which potentially prevents the full normalization of relations between the United States and North Korea because it conditions the lifting of some economic sanctions on measurable progress towards releasing political prisoners, ceasing censorship, and creating an open society.

Lessons from Helsinki

The *1975 Helsinki Accords*—signed by the United States, Canada, the Soviet Union, and 32 other European governments—began as an attempt to resolve outstanding disputes stemming from the aftermath of World War II. The Soviet Union and Eastern European governments sought official recognition of their postwar borders, especially for East Germany, as well as increased access to Western markets. In return, the Western governments insisted on Principle VII, which states that “the participating States recognize the universal significance of human rights and fundamental freedoms.” The Accords also included provisions related to humanitarian concerns, such as family reunifications, marriages, travel, and people-to-people exchanges.

Negotiators from Eastern Europe initially opposed the inclusion of human rights, particularly freedom of travel and foreign radio broadcasts, but concluded that the provisions would prove unenforceable and were outweighed by the Accords’ security and economic benefits. At the time, some Western commentators feared that the United States had exchanged concrete concessions for unenforceable promises. However, the Helsinki Accords gradually *reshaped* public opinion in the Eastern bloc and encouraged a process of reform. Communist governments for the first time accepted as a matter of international law that mistreatment their citizens was of *legitimate concern* to the international community. Ultimately, by the 1980s, the widening gap between the human rights promises versus the human rights records of Eastern Europe governments helped increase support for dissident movements and undermine the legitimacy of communist rule.

A Helsinki-style agreement for the Korean Peninsula could likewise enshrine a comprehensive set of principles related to security, economic, and human rights concerns. The United States could defer the goal of denuclearization and instead push for a freeze on any nuclear and missile programs, subject to international monitoring and inspections. The parties could also use the opportunity to replace the 1953 Armistice Agreement with a peace treaty that would lead to U.S. recognition of the North Korean government. In return, the United States, South Korea, and Japan should demand that the North Korean government commit to respect religious freedom and related rights, as well as increase transparency. The details of any agreement between the U.S. and North Korean governments will need to be determined by their respective negotiating teams. However, the history of the 1975 Helsinki Accords provides several lessons:

1) Start with ambitious demands on rights

During the Helsinki negotiations, Western governments were split on how much to push for human rights. The French delegation suggested limiting demands to cultural exchanges and humanitarian concerns, such as family reunifications and marriages, in order to build trust and confidence with the Eastern bloc. However, the majority of Western governments decided to adopt a more ambitious position and include freedom of movement, expression, and other politically sensitive rights. In private, Western negotiators considered walking back these demands if necessary, but publicly they insisted the Eastern bloc must accept the entire package of rights provisions or risk the collapse of negotiations. Ultimately, as historian Michael Cotey Morgan concludes in *The Final Act*, “The final text of Basket III reflected some of the West’s most ambitious goals.”

Some experts have suggested starting with rights that North Korean diplomats have already acknowledged during the *UN Universal Periodic Review* process—such as gender equality and access for persons with disabilities—or treaties that the government has *ratified*—such as the Convention on the Elimination of All Forms of Discrimination against Women—as a basis for cooperation and trust-building. However, the experience of Helsinki suggests it is important for Western negotiators to credibly commit to human rights and make them a priority during negotiations. Obtaining human rights commitments while the United States still has leverage will be crucial. Just as important, U.S. diplomats should ensure that allied governments, particularly Japan and South Korea, agree with this negotiating position and stay committed to it.

2) Link issues for additional wins

U.S. diplomats sometimes worry that linking human rights issues to complex security negotiations could potentially lead to the breakdown of such talks. However, there is considerable *research* showing that, in some cases, linking disparate issues during negotiations can in fact facilitate agreement by increasing the possibility of mutually beneficial tradeoffs between the parties. For example, during the Helsinki negotiations, some Soviet officials saw Principle VII as a threat, but senior Soviet leaders desperately wanted to settle the international borders and increase access to Western markets. Ultimately, the Eastern bloc felt it had more to lose from the collapse of negotiations than from acceding to Principle VII.

The red lines for U.S. and North Korean negotiators in any future talks will certainly differ from those in Helsinki. As of early 2020, both sides want to avoid appearing desperate for a deal. Nevertheless, there are signs that the status quo is unsustainable. Multilateral sanctions have hampered the North Korean economy; the country *does not import* as much as it probably needs to sustain domestic industries or consumption. This is significant because Kim had promised better economic conditions when he came to power and North Korean elites have become used to access to luxury goods. Although there is no evidence of an imminent economic crisis, the government does view sanctions relief as a priority.

For their part, U.S. policymakers have found it *politically difficult* to publicly advocate for anything less than the complete disarmament of North Korea’s nuclear program, even if that goal is no longer realistic. Incorporating human rights into the negotiations could provide the policymakers with additional wins to compensate for lowered expectations for security-related talks. In addition, progress on human rights would meet some of the conditions under the North Korea Sanctions and Policy Enhancement Act of 2016 for sanctions relief, which in turn should make the North Korean regime more willing to engage in negotiations. In short, rather than acting as a distraction, human rights and religious freedom could help consolidate support for a compromise.

3) Accept flexibility on enforcement mechanisms

While Western negotiators took a maximalist position on which rights to include in the text of Principle VII, they adopted a more flexible approach to enforcement mechanisms for those rights. To *assuage* Soviet concerns, Principle VI reiterated respect for sovereignty and non-interference in internal affairs. Soviet leaders also worried about the implications of making the Helsinki agreement a legally binding “treaty,” so the parties agreed to call it the “Helsinki Accords” (or “Helsinki Final Act”) and to treat it

as a politically rather than legally binding document. Instead of a permanent secretariat, the Accords created a set of ad hoc meetings that would periodically monitor human rights conditions. These ad hoc mechanisms *proved ineffective* in holding Eastern bloc governments to the agreed principles and rarely met, but this did not prevent Western governments and human rights groups from leveraging the Accords for rights advocacy. In 1975, the U.S. Congress created the Commission on Security and Cooperation in Europe (*CSCE*) to monitor and encourage compliance with the Helsinki Accords. The first chair, U.S. Congressman Dante B. Fascell, *credited* the CSCE with facilitating the work of nongovernmental organizations (NGOs) and pushing governments to be more vocal in insisting that Communist regimes honor commitments made at Helsinki.

Like the Eastern bloc, the North Korean government would not accept a strong mechanism to enforce human rights. On the contrary, flexibility will be needed to ensure that North Korean negotiators agree to a set of human rights principles. For example, any agreement could urge North Korean officials to engage and consult with the UN High Commissioner for Human Rights, the UN Special Rapporteur on the Situation of Human Rights in North Korea, and a U.S. Special Envoy for North Korean Human Rights Issues. The North Korean government refuses to cooperate with any of these mechanisms, but might be persuaded to do so if initial consultations were kept private and the envoys agreed to release no public reports during the first few years of engagement.

4) Leverage creative and long-term thinking in the absence of internal dissidents

Without a permanent mechanism to oversee compliance, the Helsinki Accords relied upon networks of human rights advocates—both inside and outside the Eastern bloc. Despite ongoing oppression, some activists in Eastern Europe managed to operate and form informal groups. During the 1970s and 1980s, dissidents like Andrei Sakharov, Lech Walesa, and Vaclav Havel became international celebrities for their peaceful advocacy against Communism. Reformers within the Soviet Union

formed the Helsinki Group, a watchdog organization to monitor the Russian government's compliance with Principle VII. Although the Soviet government cracked down on the group, the U.S. government and international human rights groups criticized the Soviets for not adhering to the spirit of the Accords.

External actors can use international agreements to support the efforts of internal reformers, but ultimately change must come from within. As Korea expert *John Feffer* notes, this poses a major challenge to any attempt to “copy and paste” the Helsinki model onto the Korean Peninsula. The North Korean regime is more ruthless and systematic in cracking down on dissent than were most Eastern bloc countries. There are no known opposition movements and no internationally recognized dissidents. The government has much tighter control over media and communication, such that most citizens might not even learn about human rights provisions in any agreement. Nevertheless, according to *defectors*, some citizens do have access to information about the outside world—often through foreign radio broadcasts, DVDs, and USBs—and are increasingly skeptical of state propaganda.

Given these circumstances, U.S. policymakers will need to be creative and think long-term. The goal cannot and should not be to overturn the North Korean regime, but rather to improve religious freedom and broader human rights conditions. Family reunions, marriages, and cultural exchanges—while not directly related to religious freedom—could yield benefits over the longer term by opening up avenues of communication and people-to-people contacts that will then help educate citizens about their rights. A Helsinki-style agreement could also provide leverage to human rights advocates in South Korea, especially the more than 33,500 North Korean defectors in the country. These groups can have a significant influence on the South Korean government's policies towards the North, including its advocacy before the United Nations (the South Korean government recently *declined to co-sponsor* a UN resolution on North Korea's rights record).



Conclusion

The idea of using the Helsinki model to pursue comprehensive negotiations with North Korea is not new; North Korea experts such as [Frank Aum](#), [Frank Januzzi](#), [Youngho Kim](#), and [Andrei Lankov](#) have all argued for similar proposals. However, the current situation provides an ideal opportunity to try an unorthodox approach. First, with the UN Commission of Inquiry and other reporting about North Korea, the world now knows far more about human rights abuses inside North Korea. Second, at least for security-related negotiations, President Trump's personal diplomacy with Kim Jong-un demonstrates a willingness to try unconventional and even politically controversial approaches. Finally,

the Trump administration has prioritized international religious freedom (although as previously noted concrete action on North Korea remains limited). The past few administrations have largely prioritized U.S. security goals over human rights, but a Helsinki approach could achieve progress on both concurrently. Any U.S.-DPRK Helsinki-style agreement would need to be both flexible and focus on long-term goals. Policymakers should keep their expectations realistic—neither denuclearization nor democratization of North Korea is likely in the near future—but reaching at least a temporary reprieve to the security-related tensions would allow the United States to help foster deeper reforms in North Korea.

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